

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Own Motion to Consider the Line  
Extension Rules of Electric and Gas Utilities.

Rulemaking 92-03-050

**ADMINISTRATIVE LAW JUDGE'S RULING  
ON JOINT UTILITY RESPONDENTS SECOND  
MOTION TO STRIKE TESTIMONY**

On September 12, 2001, the Joint Utility Respondents (JURs)<sup>1</sup>, filed a motion to strike certain portions of the reply testimony of the California Building Industry Association (CBIA) dated September 7, 2001. CBIA filed its response on September 17, 2001. The JURs filed a reply to the response of CBIA on September 26, 2001.

The JURs motion to strike concerns CBIA's testimony related to the two accounting issues remaining in this proceeding. Specifically, the JURs request that CBIA's testimony related to design credits, the bidding process, anti-competitive behavior, overtime, General Order 165, and the amount of the credit, be stricken.

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<sup>1</sup> Southern California Edison Company, San Diego Gas & Electric Company, Southwest Gas Corporation, Pacific Gas and Electric Company, and Southern California Gas Company.

CBIA responds that it recognizes that there is a fine line between the issues that are properly within the scope of the proceeding and those that fall outside the defined scope. CBIA believes that, therefore, the separation of credit issues from the accounting issues is impossible and that without consideration of these credit issues along with proposed accounting changes related to shareholder treatment there can be no meaningful change in the status quo.

As set forth in the Administrative Law Judge's (ALJ) Ruling dated March 15, 2001, the remaining issues to be addressed in this proceeding are: (a) "free" trench inspections for applicant installations; (b) the accounting for applicant design costs as on the utility's books, and (c) the accounting for applicant installation costs as on the utility's books. With regard to the accounting issues, the ALJ clarified that "the real issue before the Commission is whether current utility accounting procedures should be changed so that utility shareholders are placed at risk for costs in excess of bid amounts."<sup>2</sup> In fact, the ALJ, earlier, informed the parties at a prehearing conference (PHC) of his intent to exclude issues such as what the amount of the design credit should be, or how the design credit should be calculated<sup>3</sup>.

At the September 19 PHC, representatives of the developers and contractors alleged that the utilities were not providing bids for design of applicant systems as required by Decision. (D.) 97-12-099. As set forth in the Decision, the bid amount less any appropriate charges such as for plan checking,

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<sup>2</sup> See the June 27, 2001 ALJ's Ruling on the Motion of the California Building Association to Compel Responses to its Data Requests, at p. 3.

<sup>3</sup> Reporters Transcript (March 7, 2001), p. 672, Ins. 18-28; p. 673, Ins. 1-3.

is the amount of the credit to be provided by the utility if the applicant designs the system. The utilities, on the other hand, maintain that they are in compliance with the Decision.

These allegations are very disturbing to say the least. However, such allegations should be presented in a complaint case so that the Commission has all the facts before it. A rulemaking proceeding is not the appropriate vehicle for such an investigation.

Contrary to CBIA's belief, the resolution of either accounting issue does not require a reexamination of the way applicant design credits are calculated. Both accounting issues can be fully presented without any reference to applicant design credits. The amount of the design credit bears no relation to the issue of shareholder risk. As such, the Commission need not reexamine the issue of applicant design credits, which was fully addressed in D. 97-12-099, and, issues such as the amount of design credits, the bidding process, etc., are outside the scope of this proceeding.

Therefore, **IT IS RULED** that:

1. The Joint Utility Respondents' motion to strike portions of California Building Industry Association's testimony dated September 7, 2001, is granted in its entirety.

2. A prehearing conference (PHC) will be held on Thursday, October 11, 2001, at 1:00 p.m. in the Commission Courtroom, State Office Building, 505 VanNess Avenue, San Francisco, California. The purpose of the PHC is to set the dates for evidentiary hearing.

Dated September 28, 2001, at San Francisco, California.

/s/ BERTRAM D. PATRICK

Bertram D. Patrick  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling On Joint Utility Respondents' Second Motion To Strike Testimony on all parties of record in this proceeding or their attorneys of record.

Dated September 28, 2001, at San Francisco, California.

/s/ JEANNIE CHANG  
Jeannie Chang

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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